



# EXHIBIT

# A

# Greenberg Traurig

Louis Smith  
Tel. (973) 360-7915  
Fax (973) 301-8410  
smithlo@gtlaw.com

December 21, 2007

## VIA FEDEX


Irby E. Walker Jr., Esq.  
Irby E. Walker Jr., P.C.  
212 Elm Street  
Conway, SC 29526

**Re: American Express Marketing and Development Corp. and  
American Express Company v. James Harold Spurlin  
07 CIV 7317, US District Court, Southern District New York**

Dear Mr. Walker:

Enclosed please find courtesy copies of a Request to Enter Default, Clerk's Certificate of Default, and Declaration in Support of Request for Default regarding Mr. Spurlin, which were filed today in the above. Should you wish to discuss, please do not hesitate to contact me.

Sincerely yours,



Louis Smith

Enclosure

ALBANY  
AMSTERDAM  
ATLANTA  
BOCA RATON  
BOSTON  
BRUSSELS\*  
CHICAGO  
DALLAS  
DELAWARE  
DENVER  
FORT LAUDERDALE  
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ZURICH

\*Strategic Alliance  
Tokyo-Office/Strategic Alliance

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From: Origin ID: LKKA (973) 443 3569  
Louis Smith, Esq.  
GREENBERG TRAURIG NJ  
200 Park Avenue  
  
FLORHAM PARK, NJ 07932



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Irby E. Walker, Jr., Esq.  
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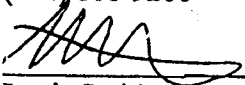
GREENBERG TRAURIG, LLP  
Louis Smith (LS 8851)  
MetLife Building  
200 Park Avenue  
New York, New York 10166  
(212) 801-9200  
(212) 801-6400 (fax)  
*Attorneys for Plaintiffs*

AMERICAN EXPRESS MARKETING & DEVELOPMENT CORP. (a Delaware corporation), AMERICAN EXPRESS COMPANY (a New York corporation)   Plaintiff,  vs.  JAMES HAROLD SPURLIN (an individual)  Defendant.	UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK  Civil Action No. 07-7317 (NRB)  <b>REQUEST TO ENTER DEFAULT OF DEFENDANT JAMES HAROLD SPURLIN</b>  Document Filed Electronically
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TO: J. MICHAEL MCMAHON, CLERK  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Please enter the default of defendant James Harold Spurlin pursuant to Rule 55(a) of the Federal Rules of Civil Procedure for failure to plead or otherwise defend the above-captioned action as fully appears from the court file herein and from the attached declaration of Louis Smith, Esq.

Dated: December 21, 2007

GREENBERG TRAURIG, LLP  
MetLife Building  
200 Park Avenue  
New York, New York 10166  
(212) 801-9200  
  
Louis Smith (LS 8851)  
*Attorneys for Plaintiffs*

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200 Park Avenue  
New York, New York 10166  
(212) 801-9200  
(212) 801-6400 (fax)  
*Attorneys for Plaintiff*

AMERICAN EXPRESS MARKETING &  
DEVELOPMENT CO. P.  
(a Delaware corporation),  
AMERICAN EXPRESS COMPANY  
(a New York corporation)

Plaintiff,

vs.

JAMES HAROLD SPURLIN (an individual)

Defendant.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Civil Action No. 07-7317 (NRB)

CLERK'S CERTIFICATE OF  
DEFAULT OF DEFENDANT  
JAMES HAROLD SPURLIN

Document Filed Electronically

I, J. Michael McMahon, Clerk of Court of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on August 16, 2007 with the filing of a summons and complaint; that defendant James Harold Spurlin was served with a copy of the complaint, along with a request that defendant execute a Waiver of Service of Summons, through delivery to his counsel on August 21, 2007; that defendant James Harold Spurlin executed a Waiver of Service of Summons on September 25, 2007, and that the executed Waiver of Service of Summons was filed on October 18, 2007.

I further certify that the docket entries indicate that the defendant has not filed an answer or otherwise moved with respect to the complaint herein. The default of defendant James Harold Spurlin is hereby noted pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

Dated: New York, New York

Dec 21, 2007

J. MICHAEL MCMAHON  
Clerk of Court

By:

Deputy Clerk

GREENBERG TRAURIG, LLP  
 Louis Smith (LS 8851)  
 MetLife Building  
 200 Park Avenue  
 New York, New York 10166  
 (212) 801-9200  
 (212) 801-6400 (fax)  
*Attorneys for Plaintiffs*

<p>AMERICAN EXPRESS MARKETING &amp;          DEVELOPMENT CORP.          (a Delaware corporation),          AMERICAN EXPRESS COMPANY          (a New York corporation)</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>JAMES HAROLD SPURLIN (an individual)</p> <p style="text-align: right;">Defendant.</p>	<p>UNITED STATES DISTRICT COURT          SOUTHERN DISTRICT OF NEW YORK</p> <p>Civil Action No. 07-7317 (NRB)</p> <p><b>DECLARATION IN SUPPORT OF          REQUEST FOR DEFAULT OF          DEFENDANT          JAMES HAROLD SPURLIN</b></p> <p>Document Filed Electronically</p>
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LOUIS SMITH hereby declares under penalty of perjury as follows:

1. I am a shareholder with Greenberg Traurig, LLP, counsel for plaintiffs American Express Marketing and Development Corp. and American Express Company in the above-captioned matter. I have personal knowledge of the facts set forth herein.
2. This action was commenced with the filing of the Complaint on August 16, 2007.
3. On August 21, 2007, I sent to Irby E. Walker, Jr., counsel for Defendant James Harold Spurlin, a copy of the Complaint in this action, a Notice of Lawsuit and Request for Waiver of Service of Summons and two copies of the Waiver of Service of Summons. The Notice of Lawsuit and Request for Waiver of Service of Summons and the Waiver of Service of Summons indicated that defendant must respond to the Complaint within 60 days after August 21, 2007, or no later than October 22, 2007. A copy of the Notice of Lawsuit and Request for Waiver of Service of Summons is attached as Exhibit A.

4. Under cover of a letter dated September 25, 2007, counsel for Defendant James Harold Spurlin forwarded to me an executed Waiver of Service of Summons, which also provides that defendant must respond within 60 days after August 21, 2007. The executed Waiver of Service of Summons was dated September 25, 2007. A copy of the Executed Waiver of Service of Summons is attached as Exhibit B.

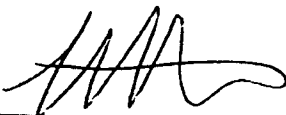
5. On October 18, 2007, I electronically filed an Affirmation of Service, which attached a copy of the Notice of Lawsuit and Request for Waiver of Service of Summons and the Executed Waiver of Service of Summons. Presumably based upon the execution date of September 25, 2007, the Clerk indicated on the docket that defendant Spurlin's "answer due" date was November 26, 2007. *See* Docket Entry 3.

6. The time within which James Harold Spurlin may answer or otherwise move with respect to the complaint herein has expired; said defendant has not answered or otherwise moved with respect to the complaint, and the time for defendant to do so has not been extended.

7. To the best of my knowledge, information and belief, said defendant is not an infant or incompetent and is not presently in the military service of the United States.

8. Wherefore, plaintiffs American Express Marketing and Development Corp. and American Express Company request that the default of defendant James Harold Spurlin be noted and entered upon the docket.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
LOUIS SMITH

Dated: December 21, 2007



# EXHIBIT

# A

**Notice of Lawsuit and Request for Waiver of Service of Summons**

TO: James Harold Spurlin  
3721 Wesley Street, Suite 123  
Myrtle Beach, SC 29579

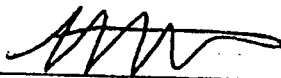
A lawsuit has been commenced against you. A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the Southern District of New York and has been assigned docket number 07 CIV 7317.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the costs of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within thirty (30) days after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, as authorized by those Rules, ask the court to require you to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth on the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiffs, this 21<sup>st</sup> day of August, 2007.



Louis Smith  
Greenberg Traurig LLP  
200 Park Avenue  
Florham Park, New Jersey 07932-0677  
*Attorney for Plaintiffs*  
*American Express Marketing & Development Corp.*  
*and American Express Company*

EXHIBIT  
**B**

**Waiver of Service of Summons**

TO: Louis Smith  
Greenberg Traurig LLP  
200 Park Avenue  
Florham Park, New Jersey 07932-0677  
*Attorney for Plaintiffs*  
*American Express Marketing & Development Corp.*  
*and American Express Company*

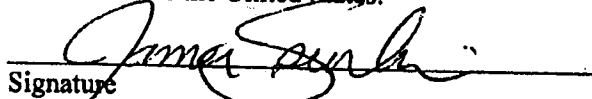
I acknowledge receipt of your request that I waive service of a summons in the action of American Express Marketing & Development Corp. and American Express Company vs. James Harold Spurlin, which is case number 07 CIV 7317 in the United States District Court for the Southern District of New York. I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after August 21, 2007, or within 90 days after that date if the request was sent outside the United States.

9-25-07  
Date

  
Signature  
Name: James Harold Spurlin

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant who, after being notified of an action and asked to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or even its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against the defendant. By waiving service, a defendant is allowed more time to answer than if the summons has been actually served when the request for waiver of service was received.

Effective A/O 12/1/93 in compliance with  
Federal Rules of Civil Procedure 4  
SDNY Web 4/99

# EXHIBIT **B**

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<b>Tracking number</b>	947513645318	<b>Reference</b>	090025.010900
<b>Signed for by</b>	I.WALKER	<b>Destination</b>	Conway, SC
<b>Ship date</b>	Dec 21, 2007	<b>Delivered to</b>	Receptionist/Front Desk
<b>Delivery date</b>	Dec 27, 2007 10:59 AM	<b>Service type</b>	Priority Envelope
		<b>Weight</b>	0.5 lbs.

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**Signature image available** Yes

Date/Time	Activity	Location	Details
<b>Dec 27, 2007</b>	10:59 AM <b>Delivered</b>	Conway, SC	
	9:29 AM On FedEx vehicle for delivery	MYRTLE BEACH, SC	
<b>Dec 26, 2007</b>	5:05 PM At local FedEx facility	MYRTLE BEACH, SC	
	10:11 AM Delivery exception	MYRTLE BEACH, SC	Customer not available or business closed
	9:01 AM On FedEx vehicle for delivery	MYRTLE BEACH, SC	
<b>Dec 24, 2007</b>	10:09 AM Delivery exception	MYRTLE BEACH, SC	Holiday - Business closed
<b>Dec 22, 2007</b>	10:11 AM At local FedEx facility	MYRTLE BEACH, SC	
	10:11 AM At local FedEx facility	MYRTLE BEACH, SC	Package not due for delivery
	7:46 AM At dest sort facility	WEST COLUMBIA, SC	
	5:00 AM Departed FedEx location	MEMPHIS, TN	
	1:39 AM Arrived at FedEx location	MEMPHIS, TN	
	12:46 AM Departed FedEx location	NEWARK, NJ	
<b>Dec 21, 2007</b>	10:28 PM Left origin	EAST HANOVER, NJ	
	7:11 PM Picked up	EAST HANOVER, NJ	
	5:12 PM Package data transmitted to FedEx		





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<input type="text"/>	English 	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	English 	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	English 	<input type="checkbox"/>	<input type="checkbox"/>

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